

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY  
**Caption in compliance with D.N.J. LBR 9004-1(b)**

**PACHULSKI STANG ZIEHL & JONES LLP**

Laura Davis Jones  
Colin R. Robinson  
Peter J. Keane  
919 N. Market Street, 17th Floor  
Wilmington, DE 19801  
Telephone: (302) 652-4100  
Facsimile: (302) 652-4400  
Email: ljones@pszjlaw.com  
crobinson@pszjlaw.com  
pkeane@pszjlaw.com

-and-

**KELLOGG, HANSEN, TODD, FIGEL &  
FREDERICK, P.L.L.C.**

David C. Frederick (pro hac vice pending)  
Gregory G. Rapawy (pro hac vice pending)  
Ariela M. Migdal (pro hac vice pending)  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036  
Telephone: (202) 326-7900  
Facsimile: (202) 326-7999  
Email: dfrederick@kellogghansen.com  
grapawy@kellogghansen.com  
amigdal@kellogghansen.com

*Counsel to Arnold & Itkin LLP*

In re:

LTL MANAGEMENT LLC,

Debtor.

Chapter 11

Case No. 23-12825 (MBK)

**ARNOLD & ITKIN'S COUNTERSTATEMENT OF ISSUES ON APPEAL AND  
COUNTER-DESIGNATION OF RECORD**

### **PRELIMINARY STATEMENT**

The law firm of Arnold & Itkin LLP (“Arnold & Itkin”), on behalf of certain talc personal injury claimants represented by Arnold & Itkin, through undersigned counsel, and pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure, hereby submits its counterstatement of issues and designation of additional items to be included in the record on appeal.

### **COUNTER-STATEMENT OF ISSUES**

1. Whether the Bankruptcy Court properly exercised its discretion in dismissing LTL’s second chapter 11 case for lack of good faith.
2. Whether the Bankruptcy Court correctly found that the evidentiary record at trial failed to establish sufficient imminent or immediate financial distress to satisfy the criteria enunciated by the Third Circuit in *LTL Mgmt., LLC v. Those Parties Listed on Appendix A to Complaint (In re LTL Mgmt., LLC)*, 64 F.4th 84 (3d Cir. 2023) (“*LTL Mgmt.*”) for a good-faith chapter 11 filing.
3. Whether Appellants are precluded, under principles of collateral estoppel or otherwise, from challenging in this appeal any of the rulings of the Third Circuit in connection with the dismissal of LTL’s first chapter 11 case in *LTL Mgmt.*, including, without limitation, with respect to Section 1112(b)(2) of the Bankruptcy Code.
4. Whether the Bankruptcy Court properly found that LTL was unable to meet its burden of satisfying all of the elements of section 1112(b)(2).

### **DESIGNATIONS OF RECORD**

Arnold & Itkin joins in, incorporates, and adopts the designation of additional items to be included in the record on appeal filed by the Official Committee of Talc Claimants (the “TCC”).

Dated: September 21, 2023

**PACHULSKI STANG ZIEHL & JONES LLP**

By: /s/ Colin R. Robinson

Laura Davis Jones  
Colin R. Robinson  
Peter J. Keane  
919 N. Market Street, 17th Floor  
Wilmington, DE 19801  
Telephone: (302) 652-4100  
Facsimile: (302) 652-4400  
Email: ljones@pszjlaw.com  
crobinson@pszjlaw.com  
pkeane@pszjlaw.com

-and-

**KELLOGG, HANSEN, TODD, FIGEL &  
FREDERICK, P.L.L.C.**

David C. Frederick (pro hac vice pending)  
Gregory G. Rapawy (pro hac vice pending)  
Ariela M. Migdal (pro hac vice pending)  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036  
Telephone: (202) 326-7900  
Facsimile: (202) 326-7999  
Email: dfrederick@kellogghansen.com  
grapawy@kellogghansen.com  
amigdal@kellogghansen.com

*Counsel for Arnold & Itkin LLP*